



**State of California  
Franchise Tax Board**

# Nonresident Withholding – Partnership Guidelines

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Withhold-at-Source forms can be ordered 24  
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1-800-998-FORM

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# Nonresident Withholding — Partnership Guidelines

## Introduction

### Purpose

This publication provides guidance on domestic (Part 1) and foreign (Part 2) nonresident partner withholding requirements. This publication does not cover withholding on payments made to independent contractors or to nonresident sellers of California real estate. For more information on independent contractor and real estate withholding, refer to FTB Pub. 1023, Nonresident Withholding – Independent Contractors, Rent & Royalties Guidelines and FTB Pub. 1016, Nonresident Withholding – Real Estate Guidelines.

Contact the Withhold-at-Source Unit with questions or concerns. The telephone number for the Withhold-at-Source Unit is (916) 845-4900.

### LAW – Domestic (non-foreign) Nonresident Partners

California Revenue and Taxation Code (R&TC) Section 18662 and the related California regulations (18805 and 26131) require partnerships to withhold income taxes when distributing current or prior year income to domestic nonresident partners. Withholding is not required if distributions to a partner are \$1,500 or less during the calendar year.

### LAW – Foreign (non-U.S.) Partners

R&TC Section 18666 requires withholding on income from California sources which is allocated to foreign partners. R&TC Section 18666 generally conforms to federal Internal Revenue Code (IRC) Section 1446. See Rev. Proc. 89-31 for more information on foreign partner withholding.

## Recent Changes You Should Note

Legislation effective January 1, 1994, (S.B. 3, Stats. 1993, Ch. No. 31) consolidated most administrative provisions of the R&TC. These changes affect the following law sections referenced in this publication:

Repealed Section Number	Reenacted Section Number
18408 & 25962.2	19708
18408.5	18535
18684.2 & 25934.2	19132
18685	19164
18805 & 26131	18662
18807	18666
18815	18668
19409	19709

Also starting January 1994, Forms 598, 598-A and 598-B were discontinued and replaced by:

- Form 592 Nonresident Withholding Annual Return
- Form 592-A Nonresident Withholding Remittance Statement
- Form 592-B Nonresident Withholding Tax Statement

The California Limited Liability Act of 1994 (Stats. 1994, Ch. 1200) authorizes the formation of limited liability companies (LLCs) in California and recognizes out-of-state LLCs doing business in California. The taxation of an LLC in California depends upon its

classification as a partnership or corporation for federal tax purposes.

Legislation effective October 10, 1995, (S.B. 513, Stats. 1995, Ch. No. 679) authorized the establishment of registered limited liability partnerships (LLPs).

LLCs and LLPs that are: (1) organized in California, (2) organized in another state but registered with the California Secretary of State, (3) doing business in California or (4) deriving income from California sources are required to file returns. For purposes of this publication, LLCs and LLPs are included in the term "partnership" and members are included in the term "partner." For withholding purposes, both LLCs classified as partnerships and LLPs are treated like partnerships.

## Questions and Answers

### Part 1 — Domestic (non-foreign) Nonresident Partners

#### A. Withholding Requirements

##### 1. What is the withholding rate?

The withholding rate is 7 percent of distributions of California source income to domestic nonresident partners.

##### 2. When is a partnership required to withhold?

Withholding at source is required when the Franchise Tax Board (FTB) notifies the partnership to withhold. See question 3 regarding what constitutes notice. Once the partnership receives notice from FTB, it should begin withholding on distributions of California source income made to its nonresident partners. This includes, but is not limited to, distributions of current year income and distributions of prior year income that should have been but was not previously reported as income from California sources on the partner's California return.

Withholding is not required if California source income distributed to the partner is \$1,500 or less during the calendar year or the partner has received a waiver of withholding from the FTB. See Section E of this publication for more information on waivers and situations where the FTB grants waivers. Also, certain distributions from "investment partnerships" are exempt from withholding. (See question 9.)

For prior year California source income, withholding is not required if the partner provides the partnership a signed statement certifying that the partner previously reported the income on the partner's California return. The partnership may then rely on this certification to waive the withholding obligation on that income for that partner. Use California Form 590-P, Nonresident Withholding Exemption Certificate for Partners and Members, for this purpose.

The FTB is not requiring withholding on income generated in partnership taxable years beginning before January 1, 1993 as "prior year income that should have been but was not previously reported as income from California sources on the partner's California returns."

**3. How will the FTB notify partnerships? Will partnerships, which have California source income but do not receive notice because they did not file returns, be considered notified and therefore be required to withhold?**

The FTB will annually mail notices to partnerships that were not notified in prior years. Generally, partnerships not notified in prior years are first time partnership filers. Notice is considered constructively given yearly in the Form 565 instructions by the due date of the partnership return (without regard to any extensions of time to file).

Partnerships that do not file California partnership returns when required to file are considered to have received constructive notice of the withholding requirements. These partnerships may be subject to penalties for failure to withhold.

**4. Are there exceptions to withholding?**

Yes. Withholding is not required if one of the following exceptions is met:

1. the partner is a California resident;
2. the partner is a corporation that is qualified to do business or has a permanent place of business in California;
3. the partner is a partnership that has a permanent place of business in California;
4. the total distributions of California source income to the partner are less than or equal to \$1,500 for the calendar year;
5. the partner or partnership receives a withholding waiver from the FTB;
6. the partner is a tax exempt entity under either California or federal law;
7. the distribution is exempt income; or
8. the distribution is California source income which was previously reported on the partner's California tax return. (See question 2.)

**5. If the partnership expects the distributions of California source income to a nonresident partner to exceed \$1,500 during the year, when should withholding start: At the time of the first distribution? Or when the distribution exceeds \$1,500?**

If the partnership expects the total distributions will exceed \$1,500 during the calendar year, the partnership withholds on all distributions of California source income made to that nonresident partner. When the partnership distributes more than \$1,500 to a nonresident partner, the entire distribution is subject to withholding, not just the amount exceeding \$1,500.

**6. Will the FTB require "catch-up" withholding if the partnership reasonably believed that California source income distributions for the year would not exceed \$1,500, but later determines that the distributions will exceed \$1,500?**

No. If the partnership reasonably believed that California source income distributions would not exceed \$1,500 for the calendar year, the FTB will not require the partnership to catch-up withholding for prior distributions. Once the partnership determines total distributions of California source income for the calendar year will exceed \$1,500, the current and all future distributions of California source income for that year are subject to withholding.

**7. With respect to the \$1,500 limit per partner, does it apply to distributions made on a per partnership basis, or should other sources of income received by that partner be included?**

The \$1,500 threshold applies on a per partnership basis. Other sources of income or distributions from other partnerships are not considered.

**B. Income Subject to Withholding**

**8. What amounts are subject to withholding?**

Distributions, including property, of California source income are subject to withholding. This is different from the foreign partner withholding under R&TC Section 18666, which is based on allocations (not distributions) of income. (See Part 2 of this publication for withholding on foreign partners.)

**9. Is withholding required on distributions from "investment partnerships?"**

No. Effective January 1, 1993, R&TC Sections 17955 and 23040.1 provide that income earned by partners in an "investment partnership" from the buying, selling or holding of "qualified investment securities" is not derived from California sources. Therefore, this income shall not be subject to withholding under R&TC Section 18662.

Income of nonresident partners, including banks or corporations, derived from "qualified investment securities" of "investment partnerships" is considered to be income from the partner's state of residence, except as noted below. Therefore, nonresident partners generally will not be taxable on this income. A partnership should inform its nonresident partners if all or part of their distributive share of income is from "qualified investment securities" of an "investment partnership."

Nonresident partners are taxed on their distributive share of income from "investment partnerships" if the "qualified investment securities" are interrelated with any other business activity of the nonresident partners that is separate and distinct from the investment activity and is conducted in California, or if the "qualified investment securities" are acquired with the working capital of a California trade or business in which the nonresident owns an interest. A bank or corporation is taxed on its distributive share of income if it participates in the management of the investment activities or is engaged in a unitary business with another taxpayer that participates in managing the investment activities or has income from California sources.

An "investment partnership" is a partnership that meets the following two criteria:

1. No less than 90% of the cost of the partnership's assets consists of:
  - A. qualifying investment securities,
  - B. deposits at banks or other financial institutions, and
  - C. office equipment and office space reasonably necessary to carry on the activities of an investment partnership.
2. No less than 90% of the partnership's gross income is from interest, dividends and gains from the sale or exchange of qualifying investment securities.

"Qualifying investment securities" include:

- common and preferred corporate stock, as well as debt securities convertible into common stock;
- bonds, debentures and other debt instruments;
- foreign and domestic currency deposits or equivalents and securities convertible into foreign securities;
- mortgage or asset-backed securities secured by governmental agencies;
- repurchase agreements and loan participations;
- foreign currency exchange contract and forward and futures contracts on foreign currencies;
- stock and bond index securities and futures contracts, and other similar securities;
- regulated futures contracts; and
- options to purchase or sell any of the preceding qualified investment securities, except regulated futures contracts.

"Qualifying investment securities" do not include an interest in a partnership, unless such partnership qualifies as an "investment partnership."

**10. Is the buyer required to withhold under R&TC Section 18662 when a partnership, which does not have a permanent place of business in California, sells California real property?**

No. R&TC Section 18662 exempts partnerships from withholding when selling California real property held in title by the partnership. However, R&TC Section 18662 does require the partnership to withhold when it distributes gain from the sale of California real property to its nonresident partners.

**11. What if the partnership has no California source income? Does the partnership need to request a waiver from withholding?**

No. If the distribution is a return of capital (see question 18), previously reported California source income (see question 2), or does not represent California source income, withholding is not required.

**12. What if the partnership has income from within and without California?**

Partnerships must determine what portion of the total distributions represents California source income. Then, the partnership applies the 7 percent rate to this amount. If a domestic nonresident partner's share of distributed California source income is less than or equal to \$1,500 for the calendar year, no withholding is required on distributions to that partner and no waiver request is required.

For withholding purposes, partnerships may use any reasonable method to approximate the ratio of California income to world-wide income. Reasonable methods include using the prior year's ratio or apportionment factors, annualizing current year data and using actual year-to-date figures. (See California Schedule R, Apportionment and Allocation of Income, for more information on apportionment.) Apply this ratio to the income distributions to determine the amount of California income subject to the 7 percent withholding.

The FTB does not expect exactness in meeting this requirement. If the partnership makes a good faith effort to comply with the withholding requirements, it will satisfy this requirement.

**13. Are guaranteed payments to partners subject to withholding?**

Yes. If the guaranteed payments represent income from California sources and are not subject to wage withholding through the California Employment Development Department, the payments are subject to withholding.

**14. Are distributions of property subject to withholding?**

Yes. If the property distribution represents California source income, withholding is required. The partnership withholds based on the fair market value of the property being distributed.

**15. To which year is the withholding applied, if a partnership is making a distribution and there is income from a prior year which has not been previously distributed?**

If income generated in prior years has not been previously distributed, distributions will first be considered prior year income, to the extent prior year income was not previously distributed. The balance is considered to be current year income. If income was earned in more than one prior year, the income from the earliest year is considered distributed first. (But see the answer to question 2.)

The withheld tax is credited to the year the income was generated on the withholding forms (Form 592, Nonresident Withholding Annual Return, Form 592-A, Nonresident Withholding Remittance Statement and Form 592-B, Nonresident Withholding Tax Statement). If the withheld tax applies to more than one year, separate Forms 592, 592-A and 592-B must be completed for each year. To claim the credit, attach Copy B of Form 592-B to the front of the partner's California tax return for the appropriate year.

**16. Are there special procedures to allow partners to file prior year tax returns before January 31 of the year following a distribution of prior year income?**

Yes. If the distribution of prior year income is made after the end of the calendar year but *before* the partnership files the year-end reports, Form 592, Nonresident Withholding Annual Return, and Form 592-B, Nonresident Withholding Tax Statement, the distribution and withholding may be included in the year-end reports as if the income were distributed in the just-completed calendar year. The distributed income and tax withheld are reported for the calendar year during which the income *was generated*. (See question 15.)

If the distribution of prior year income is made *after* the year-end reports have been filed, the distributed income and tax withheld are reported for the calendar year during which the income was generated. The Forms 592 and 592-B are due on or before January 31 following the close of the calendar year of the distribution. However, when all of the income from a prior year has been distributed, the withholding agent may file the Forms 592 and 592-B immediately after withholding on the distribution so that the partners may file their prior year tax returns without further delay.

**NOTE:** If the partner has already reported the prior year income on a California return and the partner completes Form 590-P, Nonresident Withholding Exemption Certificate for Partners and Members, certifying that the income to be distributed was previously reported by the partner, no withholding is required on the distribution of

that income. Also, see the Table of Contents or Index for information relating to waivers of withholding.

**Example 1:** A nonresident partner's share of partnership California source income for calendar year 1994 is \$100,000. The partnership distributes \$50,000 in November of 1994 and \$50,000 in January of 1995 before the 1994 year-end Forms 592 and 592-B are completed. The partnership withholds on both distributions. The entire \$100,000 and related withholding are reported on 1994 Forms 592 and 592-B by January 31, 1995.

**Example 2:** The partnership does not distribute the additional \$50,000 in Example 1 until May of 1995. If the partner does not certify on Form 590-P that the income was reported on his 1994 California tax return, the entire \$100,000 is subject to withholding. The November 1994 withholding is shown on 1994 Forms 592 and 592-B, due by 1/31/95. The May 1995 distribution of 1994 income is shown on 1994 Forms 592 and 592-B, due on or before 1/31/96.

**Example 3:** A partnership distributes \$20,000 to a nonresident partner in July 1995. The partner's share of California source income for 1992, 1993 and 1994 was \$10,000 each year, but no distributions were made for these years. Even though the 1992 California source income was taxable to the partner, no withholding is required on the 1992 income. (See question 2.) If the partner does not give the partnership a signed Form 590-P certifying that the 1993 and 1994 income was reported on California tax returns, withholding is required on the distribution of income for those years. Since this is the final distribution of the income for 1993 and 1994, the withholding agent can immediately send Forms 592 and 592-B for each year to the Franchise Tax Board along with the amount withheld instead of waiting until January 31, 1996.

**17. How is current year income subject to withholding determined before the end of the year?**

The partnership must make a good faith effort to estimate the total amount of California source income for the current year. Where it is impractical or impossible to estimate, use the amount of California source income recognized as of the date of the distribution.

**18. When are distributions considered a return of capital as opposed to income distributions?**

Distributions are deemed first from distributable income and second as return of capital.

**19. Are partnerships which generated net operating losses (NOL's) in prior years, resulting in NOL carryovers for its partners, required to withhold on current year distributions of California source income?**

Yes. The FTB requires withholding on distributions of California source income even though the partnership generated losses in prior years. Since the losses flowed through to the partners, the partners report any NOL carryovers. Any determination as to whether NOL carryovers and deductions are allowable is made at the partner level, not the partnership level.

Partners showing that they will owe no California taxes for the year because they have an NOL carryover may request a waiver from the FTB. The partnership may

then rely on the waiver to waive the withholding for that partner.

**20. If a domestic nonresident partner is a partner in more than one partnership, some generating income and others generating losses, may the income and losses be netted to determine if withholding is required? Does the answer change if all the partnerships are managed by the same general partner?**

No. A partnership that distributes California source income is required to withhold even though the partner has losses from other California partnerships. The fact that the partnerships are all managed by the same general partner does not change this answer.

Gains and losses are netted at the partner level, not at the partnership level. The partner may request a waiver in these situations. The FTB handles such requests on a case-by-case basis.

**C. Reporting and Sending Withholding Amounts/Due Dates (for domestic nonresident partners)**

**21. What forms do partnerships use for withholding on nonresident partners? How do we get these forms?**

Use Form 592-A, Nonresident Withholding Remittance Statement, to send amounts withheld to the FTB.

Use Form 592, Nonresident Withholding Annual Return, to report the total partnership withholding for the year and to transmit Form(s) 592-B, Nonresident Withholding Tax Statement.

Use Form 592-B, Nonresident Withholding Tax Statement, to show the amount subject to withholding and the amount withheld for the year for each nonresident partner. Attach Copy A of Form(s) 592-B to Form 592 and send to FTB. Send Copies B and C to the partners. The partners attach Copy B to their California return to obtain credit for the amount withheld. Keep Copy D for the partnership's records.

Please refer to the instructions for Forms 592, 592-A and 592-B for more information.

You may order forms 24 hours a day through "Forms-By-Fax" by calling 1-800-998-FORM or 1-800-998-3676.

If you do not have a fax machine or you need a quantity of Form 592-B (which is a multi-part, carbonless form), you may order the forms by phone or in writing. (See question 59.)

**22. When are the information returns due for domestic nonresident partners?**

Forms 592, Nonresident Withholding Annual Return, and 592-B, Nonresident Withholding Tax Statement, are due to the FTB by January 31 of the following year for domestic nonresident partners. (See question 68 for foreign partners.) If the partnership has both domestic nonresident partners and foreign partners on which it is required to withhold, a separate Form 592 must be filed for each group since the two groups have different due dates.

**23. How may partnerships report individual partner withholding information to the FTB?**

Partnerships report the withholding information to the FTB through one of the following acceptable methods:

- Copy A of Form 592-B, Nonresident Withholding Tax Statement, for each partner withheld upon.
- Copy A of the partnership's substitute Form 592-B for each partner withheld upon.
- A schedule containing the same information required on Form 592-B for each partner withheld upon.
- Magnetic media (see Exhibit H).

All of the above methods must include the same partnership and partner information required on Form 592-B. The withholding information for domestic nonresident partners is due to the FTB by January 31 unless an extension is received.

**24. May partnerships use Form K-1 to report withholding?**

No. See the methods discussed in questions 23 and 25 to report withholding.

**25. How may partnerships report Form 592-B, Nonresident Withholding Tax Statement, information to their partners?**

Partnerships report to their partners by providing each partner with one of the following acceptable forms:

- Copies B and C of Form 592-B
- Copies B and C of the partnership's substitute Form 592-B, or
- Form 1099

The Form 592-B information must be mailed to domestic nonresident partners by January 31 of the following year unless the FTB has granted the partnership an extension to file.

**26. When are withholding amounts due to the FTB for domestic nonresident partners?**

Withholding is due by the 20th day of the month following the date of the distribution. You are not required to send withholding until total amounts withheld from all payees exceed \$2,500. If amounts withheld do not exceed \$2,500 for the calendar year, the withholding is due to the FTB by January 31 of the following year. The instructions for Forms 592, 592-A and 592-B explain these requirements. (See question 67 for foreign partners.)

**27. If more than one partnership is managed by the same general partner, should the funds be paid to the FTB when withholding exceeds \$2,500 collectively or for each individual partnership?**

The \$2,500 limit applies to individual partnerships.

**28. If a partnership is withheld upon or receives a flow-through of the credit for tax withheld-at-source as a partner (tiered partnerships), may the partnership claim a refund on its partnership return (Form 565)?**

No. Form 565, Partnership Return of Income, is an information return. A partnership has no tax liability, except for the minimum tax paid by a limited partnership. The income or loss reported on Form 565, flows through to the partners and is reported on their tax returns. The withholding must follow the income and flow through to the partners. The partners will then claim the withholding credit against their individual tax liabilities. (See the following questions.)

**29. When a partnership, LLC or S Corporation is withheld upon, how does it transfer its withholding credit to its partners, members or shareholders?**

When a partnership, LLC or S Corporation is withheld upon, it receives a withholding document (usually a Form 592-B, Nonresident Withholding Tax Statement) from the withholding agent showing how much was withheld. To allocate the amount withheld to its partners, members or shareholders, it must inform the Franchise Tax Board (FTB) as follows:

Complete Form 592, Nonresident Withholding Annual Return, as if the partnership, LLC or S Corporation were the withholding agent, showing the total amount withheld on the partnership, LLC or S Corporation for the year as the amount sent to FTB. As evidence of the total amount of withholding, attach the withholding documents which the partnership, LLC or S Corporation received for the year to the Form 592. Then, complete Form 592-B for each partner, member or shareholder showing the breakdown of each partner's, member's or shareholder's share of this total. The tax withheld amounts are allocated to all partners, members or shareholders, whether residents or nonresidents of California, based on their individual interest in the partnership, LLC or S Corporation.

For more guidance on these procedures, please contact the Withhold-at-Source Unit at (916) 845-4900.

**30. May a limited partnership apply the withholding to its minimum tax liability?**

No. The minimum tax is not an income tax. The withholding credit must follow the income, which flows through to the partners. The partners will claim the withholding credit against their tax liabilities. (See previous question.)

**31. Is interest charged on late payments of withholding?**

Yes. Interest is computed on the unpaid amount from the due date of the withholding payment to the actual date paid. The imposition of interest is not a penalty, but compensation for the loss of the use of funds.

**32. Where should partnerships send amounts withheld?**

Send the payment and Form 592-A, Nonresident Withholding Remittance Statement, to:

FRANCHISE TAX BOARD  
PO BOX 942867  
SACRAMENTO CA 94267-0001

*Do not send amounts withheld to the Withhold-at-Source Unit.*

**D. Penalties**

**33. What is the FTB's policy on assessing penalties for failure to withhold?**

The FTB's policy is to work with partnerships to establish withholding procedures and to resolve instances of failure to withhold before assessing penalties. This policy is consistent with the FTB's efforts to publicize the withholding program.

The FTB will not assess penalties for failure to withhold on distributions of prior year income generated in the partnership's taxable years beginning before January 1, 1993. See question 2.



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**34. May penalties for failure to withhold be withdrawn?**

Yes. If the partnership shows that the failure to withhold was due to reasonable cause, the FTB will withdraw the penalty.

**35. What is "reasonable cause?"**

"Reasonable cause" is a standard exception to the imposition of most penalties imposed under the California Revenue and Taxation Code and the Internal Revenue Code. Generally, reasonable cause exists where the failure to comply occurs despite the exercise of ordinary business care and prudence. The same standards of reasonable cause apply to penalties imposed in the partnership withholding area as currently apply in other areas such as penalties imposed for failure to file income tax returns.

**36. What are the penalties for failure to withhold or failure to transmit the amounts withheld to the FTB?**

A partnership that fails to withhold, underwithholds or fails to transmit the amounts withheld to the FTB is liable for the greater of:

- the amount actually withheld; or
- the amount of taxes due from the partners, but not more than the amount required to be withheld.

In addition, the partnership is liable for penalties and interest as if the withholding due to the FTB were the partnership's tax liability.

These penalties could include underpayment penalty (5% plus .5% per month from the date payment is due), late filing penalty (5% per month up to a maximum of 25% from the date the return was due to the date filed) and accuracy related penalty (20%). See R&TC Sections 18668, 19132, 19164, 19708 and 19709 for further information.

The FTB will not assess penalties if the failure to withhold is due to reasonable cause.

**37. What if the partnership used an estimate to determine the portion of the distribution that represents California source income and that estimate later proves inaccurate?**

The FTB expects that there will be differences between estimated and actual California source income. We will not impose penalties on partnerships who make a good faith effort to comply with the law.

**38. What is the liability when a partnership withholds more than required, but fails to send the excess withholding to the FTB? What is the liability when a partnership sends the excess to the FTB?**

The partnership should refund excess amounts of withholding to the partners. The partnership is liable to the FTB for the amount actually withheld from the partners, but not more than the amount required to be withheld, plus interest and applicable penalties. However, if the excess withholding was sent to the FTB, the partnership should include the amount on Form 592-B, Nonresident Withholding Tax Statement. The partner will claim the excess credit on his or her income tax return. The California R&TC does not allow a refund to the partnership for amounts overwithheld on domestic nonresident partners.

**E. Waivers and Reduced Rates****39. When will waivers be allowed?**

The FTB handles waiver requests on a case-by-case basis and generally grants a waiver when one of the following applies:

1. The partner consistently files California returns and makes estimated tax payments when required.
2. The partner is a partnership. A condition of this waiver is that the partnership, which ultimately passes the income through to entities other than partnerships (such as individuals, corporations, estates or trusts), will withhold on distributions of California source income to its nonresident partners unless the FTB grants a waiver.
3. The partner is included in a group return. Individual nonresident partners may elect under R&TC Section 18535 to file a group return in lieu of filing an individual Form 540NR. For more information on group returns, contact the Franchise Tax Board, Attn: Business Entities Section, Unit #760, P.O. Box 1468, Sacramento, California 95812-1468, Telephone (916) 845-3465.
4. The partner is a newly admitted partner. A newly admitted partner is any entity that becomes a partner after the end of the partnership's taxable year.
5. The partnership is a publicly-traded partnership.
6. The partner can demonstrate that the 7 percent rate will result in over-withholding.
7. The partnership is setting up a withholding program and is encountering administrative problems.

Waiver requests for situations not addressed above are handled on a case-by-case basis.

**40. How does a partner or partnership apply for a waiver or reduced rate?**

Use California Form 588, Nonresident Withholding Waiver Request. Individual partners may submit a request, or the partnership may submit the request on behalf of its nonresident partners. The partner or partnership completes Form 588 and attaches any documentation to support the request. If sufficient information is not provided, the FTB may request additional information or deny the waiver. If the request is submitted by the partnership, the request must include a list of the nonresident partners, their identification numbers and the reason for requesting the waiver. Send requests to:

PARTNERSHIP WAIVERS  
WITHHOLD-AT-SOURCE UNIT  
PO BOX 651  
SACRAMENTO CA 95812-0651

or FAX the request to the FTB at (916) 845-4831.

**41. How soon will a response to a waiver or reduced rate request be received?**

The Withhold-at-Source Unit's goal is to respond within two to four weeks from the request date. If additional information is needed, the requester may be contacted or the request may be denied.

**42. What are the procedures to get a rush response to waiver requests when partnerships make distributions on short notice?**

Rush requests may be sent via FAX. If you send your request via FAX, do not mail the original to the FTB. Mailing the original could cause a duplication of effort and slow down the response time. The Withhold-at-Source Unit's FAX number is (916) 845-4831.

**43. Must a waiver be requested for each distribution?**

No. Currently waivers are granted for fixed periods having a maximum expiration date of two years. However, waivers may be granted for a specific distribution, if requested.

**F. Entities Subject to Withholding**

**44. What entities are subject to withholding?**

Domestic nonresident partners include individuals who are nonresidents of California and corporations that are not qualified to do business in California or do not have a permanent place of business in California. Domestic nonresident partners also include nonresident estates and trusts and partnerships that do not have a permanent place of business in California.

Resident partners and partners that have a permanent place of business in California may complete California Form 590, Withholding Exemption Certificate, to exempt them from withholding. See Section G of this publication for more information on the use of Form 590 and for definitions of "resident" and "permanent place of business in California."

**45. Is withholding required on distributions to irrevocable trusts?**

Yes. Partnerships must withhold on distributions to irrevocable trusts unless at least one trustee is a California resident. Partnerships may rely on certification by the trust that at least one trustee is a California resident. Use Form 590, Withholding Exemption Certificate, for this purpose.

The FTB will grant a waiver if the trust files California fiduciary income tax returns and complies with the withholding requirements for trusts.

**46. Is withholding required on distributions to grantor trusts?**

Yes. Partnerships must withhold on distributions to grantor trusts unless the grantor is a California resident. A grantor trust is a trust where the grantor retains substantial control and is deemed to remain the owner. Partnerships may rely on a signed certification by the grantor that he is a California resident. The grantor may use the residency section of California Form 590, Withholding Exemption Certificate, noting that he is signing as the grantor of a grantor trust.

**47. Is withholding required on distributions to estates?**

Yes. Partnerships must withhold on distributions to estates unless the decedent was a California resident at the date of death. A partnership can rely on a certification by the estate showing that the decedent was a California resident at the date of death. Use Form 590 for this purpose. The FTB will grant a waiver if the

estate files California fiduciary income tax returns and complies with the withholding requirements for estates.

**48. Is withholding required on distributions to tax-exempt entities, such as churches and pension plans (i.e., IRA's and other tax-deferred plans)?**

No. Withholding is not required and waivers are not needed for distributions to entities exempt from tax under either California or federal law. The partnership may rely on a signed statement from the partner stating it is exempt from tax. (California Form 590 is acceptable.)

**49. Is withholding required on distributions to insurance companies?**

No. Insurance companies pay a gross premium tax to the California Department of Insurance instead of California corporation income or franchise tax. Withholding only applies to income or franchise tax.

**50. Is withholding required when a partnership makes distributions of California source income to domestic nonresident partners that are partnerships, publicly-traded partnerships or Master Limited Partnerships?**

Yes. Unless the partnership receives a waiver, the partnership is required to withhold on all California source income distributions made to these domestic nonresident partners. Waivers are generally approved on distributions by publicly-traded partnerships and on distributions to brokerage firms, S corporations and tiered partnerships upon written request. See Section E of this publication for more information on waivers.

**G. Residency Status**

**51. How can a partnership identify nonresident partners?**

The following methods are acceptable:

1. Partnerships may send their partners a California Form 590, Withholding Exemption Certificate. Partners use this form to certify they are residents of California or entities not subject to withholding. The partnerships should request their partners to complete this form if it is likely they meet one of these criteria. The partnerships should retain this form and not send a copy to the FTB, unless requested.

2. Partnerships may rely on a California street address as an indication of a partner's residency status. When a partner has a California street address, withholding is not required and Form 590 is not needed to verify residency status. A valid California street address does not include a California Post Office Box, a broker's address, or an "in care of" address.

If a change of address occurs, the partnership should reevaluate residency.

3. Partnerships may use other reasonable methods approved by the FTB. If you need assistance in this area, contact the FTB, Withhold-at-Source Unit, at (916) 845-4900.

**52. Should Form 590, Withholding Exemption Certificate, be completed annually?**

No. The certification does not need to be renewed annually. Use Form 590 at the start of the partnership's withholding program and when new partners are added. Evaluate the need for securing a new Form 590 for a partner when any indication of a residency change occurs, such as a change of address, etc.

**53. Who is a California resident?**

The term "resident" includes every individual who is in California for other than a temporary or transitory purpose. And, every individual domiciled in California who is absent for a temporary or transitory purpose. Generally, an individual who comes to California for a purpose extending over a long or indefinite period will be considered a resident. However, an individual who comes to perform a particular contract of short duration will be considered a nonresident.

For more information on residency, get FTB Publication 1031 by calling the numbers listed in question 59.

**54. What is a permanent place of business in California?**

A corporation has a permanent place of business in this state if it is organized and existing under the laws of this state or has qualified to transact intrastate business through the office of the California Secretary of State. A corporation that has not qualified to transact intrastate business (i.e., a corporation engaged exclusively in interstate commerce) will be considered as having a permanent place of business in this state only if it maintains a permanent office in this state that is permanently staffed by its employees.

**57. Can a syndicate, pool, joint venture or similar organization elect not to be treated as a partnership for state income tax purposes?**

Yes. A qualified syndicate, pool, joint venture or similar organization may elect under IRC Section 761(a)(which California follows) not to be treated as a partnership for state tax purposes. As such, they are not required to file Form 565 except for the year of election. However, the California source income would still be subject to withholding under R&TC Section 18662 if distributed or paid to nonresidents or entities not qualified to do business in California or not having a permanent place of business in California.

**58. Is a return required if the partnership does not do business in California and does not receive income from California sources but has partners who are California residents?**

No. Partnerships are not required to file Form 565 if there are no business activities undertaken by partners or other agents for the partnership in California. However, if such a partnership, for the benefit of the California partners, elects to compute income differently for California purposes than for federal (for example, elects out of the installment sales method), it must file a separate California partnership return.

**I. Partner's Requirement to File a California Return**

**59. How can partners determine if California returns are required to be filed?**

Usually, nonresident partners who receive California source income have a California filing requirement. For more information on the California filing requirements or to order tax forms, call the numbers listed below:

From within the	
United States, call . . . . .	1-800-852-5711
From outside the	
United States, call . . . . .	1-916-845-6500
For hearing impaired	
with TDD, call . . . . .	1-800-822-6268

Tax forms can also be ordered by mail. Written or typed requests should include the requester's name, form numbers and the titles of the forms requested. (If you need a quantity of Form 592-B, specify the quantity needed.) Mail your request to:

TAX FORMS REQUEST UNIT  
FRANCHISE TAX BOARD  
PO BOX 307  
RANCHO CORDOVA CA 95741-0307

Please allow two weeks for a reply.

**60. Does withholding exempt a nonresident partner from the requirement to file a California return?**

No. The nonresident partner must file a California tax return if the partner meets the filing requirements.

**61. Does a waiver of withholding exempt a nonresident partner from the requirement to file a California return?**

No. A nonresident partner must file a California tax return if the partner meets the filing requirements even if a waiver was granted or the partner was exempted from withholding.

**55. When must a partnership file Form 565, Partnership Return of Income?**

Every partnership that engages in a trade or business in California or has income from sources in California must file Form 565, Partnership Return of Income. The partnership is considered to be doing business in California if any of its partners (general or limited) or other agents conduct partnership business in California.

Religious and apostolic organizations that are exempt from tax under R&TC Section 23701k are not required to file Form 565. However, Form 565 should be prepared and attached to Form 199, California Exempt Organization Annual Information Statement or Return.

**NOTE:** California does not follow the federal exception for "small partnerships" defined in IRC Section 6231 regarding not filing partnership returns. Per FTB Notice CR-88-692, the "small partnership" exception is not applicable for California purposes and all partnerships that engage in a trade or business in California or have California source income must file California returns. Also, all limited partnerships doing business in California or having a Certificate of Limited Partnership on file with the California Office of the Secretary of State must pay the annual minimum tax which is currently \$800.

**56. Are Limited Liability Companies required to file Form 565, Partnership Return of Income?**

No. Limited Liability Companies are required to file Form 568, Limited Liability Company Return of Income.

**H. Partnership's Requirement to File a California Return**

## Part 2 — Foreign (non-U.S.) Partners

### J. Withholding Requirements

#### 62. When are partnerships with foreign (non U.S.) partners required to withhold for California purposes?

California generally conforms to IRC Section 1446. R&TC Section 18666 requires partnerships to withhold on amounts subject to IRC Section 1446 withholding which represent California source income effectively connected to a California trade or business. Partnerships withhold using California's highest tax rate.

### K. Income Subject to Withholding

#### 63. What income is subject to withholding?

A foreign (non-U.S.) partner's allocated share of California source income is subject to withholding. This is different than for a domestic nonresident partner, where the income subject to withholding, under R&TC Section 18662, is limited to the amount of income distributed.

#### 64. Is a foreign partnership subject to withholding under R&TC Section 18662 when it sells California real property?

No. For California purposes R&TC Section 18662 exempts partnerships, both domestic and foreign, from withholding when selling California real property held in title by the partnership. However, R&TC Section 18666 requires the partnership to withhold on the gain from the sale of real property when such income is allocable to its foreign partners.

#### 65. What if the partnership has income from within and without California?

For foreign (non U.S.) partners, partnerships must determine how much California source income is included in total income. Then, the partnership applies the maximum rate to the partner's share of this amount.

For withholding purposes, partnerships may use any reasonable method to approximate the ratio of California income to world-wide income. Reasonable methods include using the prior year's ratio or apportionment factors, annualizing current year data and using actual year-to-date figures. (See California Schedule R, Apportionment and Allocation of Income, for more information on apportionment.) Apply this ratio to the total income allocated to a foreign partner to determine the amount of California income subject to withholding.

### L. Reporting and Sending Withholding Amounts/Due Dates (for foreign [non-U.S.] partners)

#### 66. What forms do partnerships use for reporting tax withheld on foreign partners? How do we get these forms?

The forms used are the same as those used for domestic nonresident partners. Refer to Part 1, question 21, for detailed information regarding these forms.

#### 67. When are withholding amounts due for foreign partners?

Payment of the withholding amounts for foreign partners is due in four equal installment payments during the

taxable year in which the California source income is derived. The due dates are the same as the federal, on or before the 15th day of the fourth, sixth, ninth, and twelfth months of the partnership's tax year for income tax purposes. If any additional amounts are determined to be due at the year end, the additional amounts are required to be paid with the filing of Form 592, Nonresident Withholding Annual Return.

#### 68. When are the information returns (Forms 592 and 592-B) due for foreign partners?

The due date for the information returns for foreign partners is the same as the federal. Therefore, Forms 592, Nonresident Withholding Annual Return, and 592-B, Nonresident Withholding Tax Statement, are due to the FTB on or before the fifteenth day of the fourth month (sixth month if all partners are foreign) following the close of the partnership's tax year, unless an extension to file was granted by the FTB. (See question 22 for domestic nonresident partners.) If the partnership has both domestic nonresident partners and foreign partners on which it is required to withhold, a separate Form 592 must be filed for each group since the two groups have different due dates.

#### 69. May partnerships use Form K-1 to report the withholding?

No. Use Form 592-B for this purpose or use one of the other options discussed in Part 1, questions 23 and 25.

#### 70. Is interest charged on late payments of withholding?

Yes. Interest is computed on the unpaid amount from the due date of the withholding payment to the actual date paid. The imposition of interest is not a penalty, but compensation for the loss of the use of funds.

#### 71. Where should partnerships send the amounts withheld?

Send the payment and Form 592-A, Nonresident Withholding Remittance Statement, to:

FRANCHISE TAX BOARD  
PO BOX 942867  
SACRAMENTO CA 94267-0001

*Do not send amounts withheld to the Withhold-at-Source Unit.*

#### 72. What if the partnership's estimation of the allocable income for withholding results in an amount being over withheld at year-end based on the partnership's actual allocable income? The IRS allows a refund to the partnership or a carryover credit to the next year for excess withholding which was not included in the foreign partners' Form 8805, Foreign Partner's Information Statement of Section 1446 Withholding Tax. Does California conform?

Yes. California revised its procedures to conform to Revenue Procedure 92-66. Rev. Proc. 92-66 allows partnerships to claim a refund or a credit against the next year's withholding requirement for excess withholding that was not included in the foreign partners' annual statement. Form 592, Nonresident Withholding Annual Return, has been revised to reflect this policy.

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M. Penalties

**73. Are the policies and penalties related to domestic nonresident partner withholding applicable to foreign partner withholding?**

Yes. Refer to Part 1, questions 33 through 38 for a detailed explanation.

N. Waivers or Reduced Rates

**74. May foreign partners receive a waiver from withholding or a reduced rate?**

No. There is no provision in R&TC Section 18666 to allow waivers or reduced withholding to foreign nonresident partners.

O. Entities Subject to Withholding

**75. What entities are subject to foreign partner withholding?**

California conforms to the federal definition of foreign partners. Thus, foreign partners who are nonresident alien individuals, foreign corporations, foreign partnerships, or foreign estates or trusts are subject to withholding under R&TC Section 18666 on California source income.

P. Residency Status

**76. How can a partnership identify a non-foreign partner?**

Partnerships may rely on a partner's federal certification of non-foreign status and not withhold under IRC Section 1446 for that partner. However, any California source income paid to these nonresident entities would be subject to withholding under R&TC Section 18662 unless the entity meets an exception or receives a waiver from the FTB.

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ADDITIONAL INFORMATION

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Q. Where to Get More Information

**77. Where can I get more information on the withholding requirements?**

Contact the FTB, Withhold-at-Source Unit, Post Office Box 651, Sacramento, CA 95812-0651, by telephone at (916) 845-4900 or by FAX at (916) 845-4831.

**78. Does the Franchise Tax Board have any publications similar to the federal related to foreign (non-U.S.) partners?**

No. However, California conforms to IRC 1446, and the following federal publications will provide assistance to understanding the withholding requirements related to foreign partners:

- a. IRS Pub 541, Tax Information on Partnerships
- b. IRS Pub 519, U.S. Tax Guide for Aliens
- c. IRS Pub 515, Withholding of Tax on Nonresident Aliens and Foreign Corporations

Copies of these publications may be obtained by contacting the IRS at (800) TAX-FORM or (800) 829-3676.

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**Part I TYPE OF INCOME SUBJECT TO WITHHOLDING** (please check appropriate box)

☐ Partnership
 ☐ Limited Liability Company (LLC)
 ☐ Payment to Independent Contractor
 ☐ Rents or Royalties
 ☐ Estate or Trust Distribution
 ☐ Other Payments \_\_\_\_\_ (Specify)

**Part II**

Name of requester \_\_\_\_\_ Attention or care of name \_\_\_\_\_

Address (where you want waiver sent) (number and street) \_\_\_\_\_

City, state and ZIP code \_\_\_\_\_ Daytime telephone number ( ) \_\_\_\_\_

**Part III**

Name of Withholding Agent, Partnership, LLC, Estate or Trust (If more than one, attach a separate list.) \_\_\_\_\_

Address \_\_\_\_\_ City, state and ZIP code \_\_\_\_\_

Contact person \_\_\_\_\_ Telephone number ( ) \_\_\_\_\_ FAX number ( ) \_\_\_\_\_

Social security number, California corporation number, federal employer identification number (FEIN) or California Secretary of State file number \_\_\_\_\_

If more space is needed, please attach a separate list.

☐ Check the box if you would like a copy of the reply sent to the withholding agent.

**Part IV**

Names of Vendors/payees	Social security number, California corporation number, FEIN or California Secretary of State file number	Reason for request (See below. Use the applicable letter codes.)
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

If more space is needed, please attach a separate list.

**Part V REASON FOR WAIVER REQUEST**

- A** Vendor/payee is presently filing California state income tax return(s) and/or making estimated tax payments when required.  
**B** Tiered partnership or LLC – supply names, addresses & FEINs or California Secretary of State file numbers of tiered partnerships or LLCs.  
**C** Partner(s) or member(s) included in composite return.  
**D** Vendor/partner/member is a corporation that is not qualified to do business and does not have a permanent place of business in California, but is filing a tax return based on a combined report with a corporation which does have a permanent place of business in California.  
**E** Partner or member is a newly admitted partner or member. A newly admitted partner or member is any entity that becomes a partner or member in the above listed partnership or LLC after the end of the partnership's or LLC's taxable year.  
**F** Other – attach specific reason and your calculation of the reduced rate to this request. Include substantiation (e.g. detailed estimate of annual California source income and income from all sources). Also include an estimate of annual income and distributions from the above partnerships, LLCs, estates or trusts.

**Part VI**

Under penalties of perjury, I declare that I have examined this request, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct and complete. Declaration of preparer (other than withholding agent, partner or member) is based on all information of which preparer has any knowledge.

REQUESTER'S SIGNATURE \_\_\_\_\_ TITLE \_\_\_\_\_ DATE \_\_\_\_\_

**For Privacy Act Notice, see form FTB 1131 (individuals only).**

**Do not write in this space.**

I: \_\_\_\_\_ T: \_\_\_\_\_ A: \_\_\_\_\_ E: \_\_\_\_\_ R: \_\_\_\_\_  
 F: \_\_\_\_\_ OTHER: \_\_\_\_\_

# Instructions for Form 588

## Nonresident Withholding Waiver Request

### General Instructions

#### A Purpose of Form

Use Form 588 to request a waiver or a reduced withholding rate on payments of California source income to nonresident vendors/payees.

Do not use Form 588 to request a waiver or reduced withholding rate if you are a:

- foreign partner or member. There are no provisions in the California Revenue and Taxation Code (R&TC) to waive or reduce withholding for foreign partners or members; or
- nonresident seller of California real estate. Nonresident sellers of California real estate should use Form 597-A, Nonresident Withholding Waiver Request for Real Estate Sales.

Form 588 does not apply to payments for wages to employees. Wage withholding is administered by the California Employment Development Department (EDD). For more information contact your local EDD office.

#### B Law

California R&TC Section 18662 and the related regulations require withholding on certain payments made to nonresidents for income received from California sources. The withholding rate is 7 percent unless a reduced rate or a waiver is approved by the Franchise Tax Board (FTB).

#### C Income Subject to Withholding

The items of income subject to withholding include, but are not limited to:

- compensation for services performed in California by nonresidents (including payment of expenses). For more information, get FTB Pub. 1023, Nonresident Withholding – Independent Contractor, Rent and Royalty Guidelines, or FTB Pub. 1024, Nonresident Withholding – Entertainment Guidelines;
- rent paid to nonresidents if the rent is paid in the course of the withholding agent's business;
- royalties paid to nonresidents for the right to use natural resources located in California;
- distributions of California source income to nonresident beneficiaries from an estate or trust;
- prizes and winnings received by nonresidents for contests in California;
- distributions of California source income to a domestic (nonforeign) nonresident partner or member. For more information get FTB Pub. 1017, Nonresident Withholding – Partnership Guidelines;
- partnership or LLC income, gain or (loss) allocable under IRC Section 704 to a foreign nonresident partner or member. **Note:** There are no provisions in the California R&TC to waive or reduce withholding for foreign partners or members; and
- other California source income paid to nonresidents.

Compensation for services includes payments for services rendered in California, commissions paid to salesmen or agents for orders received or sales made in California, fees for professional services rendered in California, and payments to entertainers, wrestlers, boxers, etc., for performances in California.

When compensation is paid for services performed both within and outside of California, the portion paid for services rendered in this state and subject to withholding should be determined by an allocation. Refer to Form 587, Nonresident Income Allocation Worksheet.

#### D Exceptions to Withholding

Withholding is not required when:

- the payment is for goods;
- the payment is being made to a resident of California, a corporation, a partnership or an LLC which has a permanent place of business in California. Form 590, Withholding Exemption Certificate, can be used by vendors/payees to certify that they are residents of California or have a permanent place of business in California. The signed form containing this certification should be retained by the withholding agent and should be provided to the FTB upon request. The withholding agent will be relieved of the withholding requirements if they rely in good faith on a signed certification (Form 590) that the vendor/payee is a resident of California or has a permanent place of business in California. If the resident, corporation, partnership or LLC which has a permanent place of business in California is acting as an agent for the actual vendor/payee, this exception does not apply;
- the total payments of California source income to the vendor/payee by the withholding agent are \$1,500 or less for the calendar year;
- the payments are for income from intangible personal property, such as interest and dividends unless derived in a trade or business or the property has acquired a business situs in California;
- the payments are for services performed outside of California or for rents, royalties and leases on property located outside of California. If nonresidents occasionally enter California to perform duties contracted entirely outside of California (such as reporting, receiving instructions, accounting, etc., incidental to their duties outside of California), such activity will not subject them to withholding requirements;
- the vendor/payee is a tax-exempt organization under either California or federal law (attach a completed Form 590 to certify);
- the vendor/payee receives a written authorization from the FTB waiving the withholding;
- the domestic (nonforeign) nonresident partner or member provides the partnership or LLC with a signed Form 590-P, Nonresident Withholding Exemption Certificate for Partners and Members; or
- the income of nonresident partners or members, including a bank or corporation, is derived from qualified investment securities of an investment partnership.

#### E Who May Complete this Form

Either the withholding agent, partnership, LLC, estate or trust may complete and sign this form.

#### F When and Where to File

Waiver or reduced rate requests should be submitted as early as possible before payment is made to give the FTB time to review the request.

Send Form 588 to:

**NONRESIDENT VENDOR OR  
PARTNERSHIP WAIVERS  
FRANCHISE TAX BOARD  
PO BOX 651  
SACRAMENTO CA 95812-0651  
FAX (916) 845-4831  
(available 24 hours a day)**

#### G General Information

If a request is granted, the FTB will issue a withholding waiver. A withholding agent must have received a withholding waiver authorizing a reduced rate or a waiver of withholding before reducing or eliminating withholding on payments made to nonresidents. The waiver should be retained by the withholding agent for a minimum of five years.

Withholding waivers issued by the FTB apply only for the limited purpose of determining the withholding obligation under R&TC Section 18662. They do not apply to the taxability of income. The maximum period of time for which a withholding waiver is effective is two years from the date the waiver is granted. If you previously received a waiver or reduced withholding authorization and wish to have it extended, submit a new request on Form 588 and attach a copy of the original authorization letter. The acceptance of evidence submitted with the application is not binding on the FTB for any purpose other than for the issuance of a withholding waiver.

Use Form 592, Nonresident Withholding Annual Return; Form 592-A, Nonresident Withholding Remittance Statement; and Form 592-B, Nonresident Withholding Tax Statement, to report and remit withholding to the FTB.

#### H Where to Get Additional Information

For additional information about nonresident withholding refer to FTB Pub. 1017, 1023 or 1024 or contact the Withhold at Source Unit at (916) 845-4900.

### Specific Instructions

Complete the entire form and attach the information supporting your request. Failure to include necessary information and documents may delay issuance of, or result in the denial of, the waiver or reduced rate request.

**Part I** – Check the box indicating the type of payment for which a waiver or reduced withholding is being requested.

**Part II** – Enter the name, address and to whose attention the withholding certificate is to be mailed. Include a daytime telephone number we can call if additional information is needed.

**Part III** – List the name of the withholding agent, partnership, LLC, estate or trust making the payments. Attach additional forms or a list if there is more than one name.

**Part IV** – List the names and social security numbers, California corporation numbers, FEINs or California Secretary of State file numbers of the nonresident vendors/payees. Attach additional forms if necessary.

Under reason for request, use the letter code of the reason for the waiver request from those listed in Part V.

**Part V** – This is a list of the most common reasons for requesting a waiver and the information needed to substantiate the request.

**Part VI** – Sign and date the request.



## Withholding Exemption Certificate

19

(For use by individuals, corporations, partnerships, limited liability companies, estates, trusts,  
tax-exempt entities and nonprofit organizations)

590

**File this form with your withholding agent.**

Withholding agent's name

Vendor/Payee's name

Vendor/Payee's address (number and street)

Vendor/Payee's daytime telephone number

City

State

ZIP code

Read the following carefully and check the box that applies to the vendor/payee:

☐ **Certificate of Residency — Individuals:**

I am a resident of California and I reside at the address shown above. If I become a nonresident at any time, I will promptly inform the withholding agent. See Side 2 for the definition of a resident.

☐ **Corporations:**

The above-named corporation has a permanent place of business in California at the address shown above or is qualified to do business in California. If this corporation ceases to have a permanent place of business in California or ceases to be qualified to do business in California, I will promptly inform the withholding agent. See Side 2 for the definition of permanent place of business.

☐ **Partnerships:**

The above-named partnership has a permanent place of business in California at the address shown above, and it is subject to the laws of California. The partnership will file California returns and will withhold on foreign and domestic nonresident partners when required. If the partnership ceases to do any of the above, I will promptly inform the withholding agent.

☐ **Limited Liability Companies (LLC):**

The above-named LLC has a permanent place of business in California at the address shown above, and it is subject to the laws of California. The LLC will file California returns and will withhold on foreign and domestic nonresident members when required. If the LLC ceases to do any of the above, I will promptly inform the withholding agent.

☐ **Tax-Exempt Entities and Nonprofit Organizations:**

The above-named entity is exempt from tax under California or federal law. If this entity ceases to be exempt from tax, I will promptly inform the withholding agent.

☐ **Irrevocable Trusts:**

At least one trustee of the above-named irrevocable trust is a California resident. The trust will file California fiduciary returns and will withhold on foreign and domestic nonresident beneficiaries when required. If the trustee becomes a nonresident at any time, I will promptly inform the withholding agent.

☐ **Certificate of Residency of Deceased Person — Estates:**

I am the executor of the above-named person's estate. The decedent was a California resident at the time of death. The estate will file California fiduciary returns and will withhold on foreign and domestic nonresident beneficiaries when required.

**CERTIFICATE:** Please complete and sign below.

Under penalties of perjury, I hereby certify that the information provided herein is, to the best of my knowledge, true and correct. If conditions change, I will promptly inform the withholding agent.

Vendor/Payee's name and title (type or print) \_\_\_\_\_

Vendor/Payee's social security number, California corporation number,  
FEIN or California Secretary of State file number \_\_\_\_\_**(NOTE:** Failure to provide your identification number will render this certificate void.)

Vendor/Payee's signature \_\_\_\_\_ Date \_\_\_\_\_

For Privacy Act Notice, see form FTB 1131 (individuals only).

# Instructions for Form 590

## Withholding Exemption Certificate

References in these instructions are to the California Revenue and Taxation Code (R&TC).

### General Information

#### A Purpose of Form

Use Form 590 to obtain an exemption from withholding. Complete and present Form 590 to the withholding agent. The withholding agent will then be relieved of the withholding requirements if the agent relied in good faith on a completed and signed Form 590.

#### Do not use Form 590:

- if you are a seller of California real estate. Sellers of California real estate should use Form 590-RE, Withholding Exemption Certificate for Real Estate Sales; or
- to obtain a waiver from wage withholding that is administered by the Employment Development Department under the Unemployment Insurance Code.

#### B Law

R&TC Section 18662 and the related regulations, require withholding of income or franchise tax on payments of California source income made to nonresidents of this state.

Withholding is required on:

- payments to nonresidents for services rendered in California;
- distributions of California source income made to domestic nonresident partners and members and allocations of California source income made to foreign partners and members;
- payments to nonresidents for rents if the payments are made in the course of the withholding agent's business;
- payments to nonresidents for royalties for the right to use natural resources located in California;
- distributions of California source income to nonresident beneficiaries from an estate or trust; and
- prizes and winnings received by nonresidents for contests in California.

For more information on withholding and waiver requests, get FTB Pub. 1017, Nonresident Withholding – Partnership Guidelines, and FTB Pub. 1023, Nonresident Withholding – Independent Contractor, Rent and Royalty Guidelines. To get a withholding publication, call the Withhold at Source Unit at (916) 845-4900.

#### C Who Can Execute This Form

Form 590 can be executed by:

- residents of California.
- corporations that are qualified to do business in California or have a permanent place of business in California.
- partnerships that have a permanent place of business in California. (For withholding purposes, a Limited Liability Partnership is treated like any other partnership.)
- LLCs that have a permanent place of business in California.

- organizations that are exempt from tax under either California or federal law.
- California trusts. For withholding purposes, an irrevocable trust is considered a California trust if at least one trustee is a California resident. Irrevocable trusts are required to withhold on distributions of California source income to their nonresident beneficiaries.

**Note:** The grantor of a revocable/grantor trust shall be treated as the vendor/payee for withholding purposes. Therefore, if the vendor/payee is a revocable/grantor trust and one or more of the grantors is a nonresident, withholding is required. If all of the grantors of a revocable/grantor trust are residents, no withholding is required. Resident grantors can check the box on Side 1 labeled "Certificate of Residency – Individuals."

- California estates. (For withholding purposes, an estate is considered a California estate if the decedent was a California resident at the time of death. Distributions of California source income to nonresident estates are subject to withholding.)

#### D Who is a Resident

The term "resident" includes every individual who is in California for other than a temporary or transitory purpose and, any individual domiciled in California who is absent for a temporary or transitory purpose.

An individual domiciled in California who is absent from California for an uninterrupted period of at least 546 consecutive days under an employment-related contract is considered outside California for other than a temporary or transitory purpose. This does not apply if an individual has income from stocks, bonds, notes or other intangible personal property in excess of \$200,000 in any taxable year in which the employment-related contract is in effect.

A spouse who is absent from California for an uninterrupted period of at least 546 days to accompany a spouse under an employment-related contract is considered outside of California for other than a temporary or transitory purpose.

Generally, an individual who comes to California for a purpose which will extend over a long or indefinite period will be considered a resident. However, an individual who comes to perform a particular contract of short duration will be considered a nonresident. For assistance in determining resident status, get FTB Pub. 1031, Guidelines for Determining Resident Status, or call the appropriate telephone number listed below:

From within the United States, call . . . . . 1-800-852-5711  
From outside the United States, call . . . . . 1-916-845-6500  
For hearing impaired with TDD, call . . . . . 1-800-822-6268

#### E What is a Permanent Place of Business

A corporation has a permanent place of business in this state if it is organized and existing under the laws of this state or, if it is a foreign corporation qualified to transact intrastate business by the California Secretary of State's Office. A corporation that has not qualified to transact intrastate business (e.g., a corporation engaged exclusively in interstate commerce) will be considered as having a permanent place of business in this state only if it maintains a permanent office in this state that is permanently staffed by its employees.

#### F Withholding Agent

Keep Form 590 for your records. Do not send this form to the Franchise Tax Board (FTB) unless it has been specifically requested by the FTB. If the withholding agent has received Form 594, Notice to Withhold Tax at Source, and the vendor/payee completes Form 590 indicating that they are not subject to withholding, send a copy of Form 590 along with Form 594 to the FTB. For more information, contact:

**WITHHOLD AT SOURCE UNIT  
FRANCHISE TAX BOARD  
PO BOX 651  
SACRAMENTO CA 95812-0651  
Telephone: (916) 845-4900  
FAX: (916) 845-4831**

The vendor/payee must notify the withholding agent if:

- the individual vendor/payee becomes a nonresident.
- the corporation ceases to have a permanent place of business in California or ceases to be qualified to do business in California.
- the partnership ceases to have a permanent place of business in California.
- the LLC ceases to have a permanent place of business in California.
- the tax-exempt entity loses its tax-exempt status.

The withholding agent must then complete Form 592, Nonresident Withholding Annual Return and Form 592-B, Nonresident Withholding Tax Statement, and withhold the tax at source.

19

# Nonresident Withholding Exemption Certificate for Partners and Members

590-P

**File this form with your partnership or limited liability company (LLC) for their records.**

Name

Address (number and street)

Daytime telephone number

( )

City

State

ZIP code

**Type of entity:**

Individuals — Social security number

Corporations — California corporation number or FEIN

Estates and irrevocable trusts — FEIN

Note: Failure to provide your identification number will render this certificate void.

To \_\_\_\_\_  
(Withholding agent, partnership or LLC)

**Certificate of Previously Reported Income**

Under penalties of perjury, I hereby certify that the California source income from the above named partnership or LLC (as shown on Schedule K-1 or other documents provided by the partnership or LLC) for the year(s) \_\_\_\_\_ was reported as income from California sources on the above named partner's or member's California tax return, tax year 19\_\_\_\_.

Name \_\_\_\_\_ Title \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

For Privacy Act Notice, see form FTB 1131 (individuals only).

**General Information**

References in these instructions are to the California Revenue and Taxation Code (R&TC).

**A Purpose of Form**

Use Form 590-P to obtain an exemption from withholding on distributions of a partnership's or LLC's prior year income made to domestic (nonforeign) nonresident partners or members. If the income represented by this distribution has been reported on the partner's or member's California return as income from California sources, the partner or member should file Form 590-P with the partnership or LLC. The partnership or LLC will be relieved of the withholding requirements for this partner's or member's share of this distribution if they relied in good faith on a completed and signed Form 590-P.

**Do not use Form 590-P if you are a:**

- **foreign (non-U.S.) partner or member. There is no provision under R&TC Section 18666 to allow an exemption from withholding for a foreign partner or member; or**
- **partner or member who is a resident of California or a partner or member that has a permanent place of business in California. You should use Form 590, Withholding Exemption Certificate.**

**B Law**

R&TC Section 18662 and the related regulations, require withholding of income or franchise tax by partnerships and LLCs when distributions of money or

property which represent California source income are made to partners or members who are domestic nonresidents of California.

Distributions subject to withholding include, but are not limited to, distributions which represent current year income or prior year income which should have been but was not previously reported as income from California sources on the partner's or member's California return. However, no withholding is required if distributions of California source income to the partner or member are \$1,500 or less during the calendar year. For more information on partnership and LLC withholding, get FTB Pub. 1017, Nonresident Withholding – Partnership Guidelines.

**Specific Instructions**

**Partnership and LLC.** Keep Form 590-P for your records. Do not send this form to the Franchise Tax Board unless it has been specifically requested. This form may be completed for each distribution or it may be completed by the partners or members annually.

For more information contact:

**WITHHOLD AT SOURCE UNIT  
FRANCHISE TAX BOARD  
PO BOX 651  
SACRAMENTO CA 95812-0651**

**Telephone: (916) 845-4900  
FAX: (916) 845-4831**

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## 19\_\_\_\_ Nonresident Withholding Annual Return

592

**Check one box:** ☐ Form 592-B for each recipient attached ☐ Form 592-B information on attached list. ☐ Form 592-B information on enclosed magnetic media. See separate instructions for Forms 592, 592-A and 592-B.

Section A: **To be completed for: independent contractors; rents and royalties; estates; trusts; and other entities.**

**Part I Withholding Agent (Payer)**

Name of withholding agent (payer)		Social security no., California corporation no. or federal employer identification no. (FEIN)
Address (number and street)	Principal Business Activity Code (Do not leave blank)	Daytime telephone number ( )
City, state and ZIP code (or equivalent)		

**Part II Type of Income Subject to Withholding**

☐ Payment to Independent Contractor
 ☐ Rents or Royalties
 ☐ Estate or Trust Distributions
 ☐ Other (see Section B for withholding on partners/members)

1 Enter number of 592-B's for the type of income checked above . . . . . 1 \_\_\_\_\_

2 Total amount of California source income subject to withholding . . . . . 2 \_\_\_\_\_

3 Total withholding due . . . . . 3 \_\_\_\_\_

4 Payments made during the year

(a) Date	(b) Amount	(c) Date	(d) Amount	(e) Date	(f) Amount
Total Column (b)		Total Column (d)		Total Column (f)	

Total payments for the above calendar year. Add the totals from column (b), column (d) and column (f) and enter the sum here . . . 4 \_\_\_\_\_

**Part III Remittance**

5 Total withholding remitted with Form 592. Subtract line 4 from line 3 and enter the balance due. (If this amount is less than zero, enter -0-.) Attach a check or money order for the full amount payable to "Franchise Tax Board."

Write the payer's social security number, California corporation number, or federal employer identification number and "Form 592" on the check or money order. . . . . ● 5 \_\_\_\_\_

Mail Form 592 to the **FRANCHISE TAX BOARD, PO BOX 942867, SACRAMENTO CA 94267-0001**

**Part IV Perjury Statement**

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct and complete. Declaration of preparer (other than withholding agent) is based on all information of which preparer has any knowledge.

\_\_\_\_\_  
Name and title of withholding agent (payer)

\_\_\_\_\_  
Signature of withholding agent (payer) Date

\_\_\_\_\_  
Name of preparer other than withholding agent (payer)

\_\_\_\_\_  
Signature of preparer other than withholding agent (payer)

\_\_\_\_\_  
Address

( )  
Daytime telephone number FEIN

**Section B: To be completed for foreign and domestic (nonforeign) nonresident partners and members.****Part I Withholding Agent (Partnership or Limited Liability Company (LLC))**

Name of withholding agent (partnership or LLC)

Federal employer identification  
number (FEIN) or Secretary of  
State file number

Address (number and street)

Principal Business Activity  
Code (**Do not leave blank**)

City, state and ZIP code (or equivalent)

Daytime telephone number

( )

**Part II Tax Withheld — Foreign Nonresident Partners or Members**

- 1 Enter number of Form 592-B's for noncorporate foreign nonresident partners or members. . . . . **1** \_\_\_\_\_
- 2 Enter number of Form 592-B's for corporate foreign nonresident partners or members. . . . . **2** \_\_\_\_\_
- 3 Total California source taxable income allocable to:
- a Noncorporate foreign nonresident partners or members \$ \_\_\_\_\_ x 11%. . . . . **3a** \_\_\_\_\_
- b Corporate foreign nonresident partners or members \$ \_\_\_\_\_ x 9.3%. . . . . **3b** \_\_\_\_\_
- 4 Total R&TC Section 18666 withholding due. Add line 3a and line 3b . . . . . **4** \_\_\_\_\_
- 5 Payments of R&TC Section 18666 withholding made by the partnership or LLC shown above during its tax year  
(or under an extension of time to file). Attach a list of amounts and dates paid . . . . . **5** \_\_\_\_\_
- 6 Amount credited from prior year's withholding . . . . . **6** \_\_\_\_\_
- 7 R&TC Section 18666 withholding paid or withheld by another partnership or LLC in which the partnership or LLC  
shown above was a partner or member during the taxable year (attach Form 592-B) . . . . . **7** \_\_\_\_\_
- 8 Total payments. Add line 5 through line 7 . . . . . **8** \_\_\_\_\_
- 9 Subtract line 8 from line 4 and enter the **balance due**. If this amount is less than zero, enter -0- . . . . . ● **9** \_\_\_\_\_
- 10 If line 8 is more than line 4, subtract line 4 from line 8 and enter the **overpayment** . . . . . ● **10** \_\_\_\_\_
- 11 Enter the amount of line 10 you want **credited to next year's Form 592**. . . . . ● **11** \_\_\_\_\_
- 12 Subtract line 11 from line 10 and enter the amount of **refund**. . . . . ● **12** \_\_\_\_\_

**Part III Tax Withheld — Domestic (Nonforeign) Nonresident Partners or Members**

- 13 Enter number of Form 592-B's for domestic (nonforeign) nonresident partners or members . . . . . **13** \_\_\_\_\_
- 14 Total amount of distributions subject to withholding . . . . . **14** \_\_\_\_\_
- 15 Total withholding due . . . . . **15** \_\_\_\_\_
- 16 Payments made during the tax year. Attach a list of amounts and dates paid . . . . . **16** \_\_\_\_\_
- 17 Subtract line 16 from line 15 and enter the **balance due**. If this amount is less than zero, enter -0-. . . . . ● **17** \_\_\_\_\_

**Part IV Remittance**

- 18 Total tax remitted with Form 592. Add line 9 and line 17. Attach a check or money order for the full amount payable  
to "Franchise Tax Board." Write the partnership's FEIN or the LLC's Secretary of State file number and "Form 592"  
on the check or money order . . . . . ● **18** \_\_\_\_\_

**Mail Form 592 to the FRANCHISE TAX BOARD, PO BOX 942867, SACRAMENTO CA 94267-0001****Part V Perjury Statement**

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct and complete. Declaration of preparer (other than withholding agent) is based on all information of which preparer has any knowledge.

Name of withholding agent, partner of partnership or member of LLC

Signature of withholding agent, partner of partnership or member of LLC

Title (if applicable)

Date

Name of preparer other than withholding agent, partner or member

Signature of preparer other than withholding agent, partner or member

Address

Date

( )

Daytime telephone number

FEIN or Secretary of State file number

For Privacy Act Notice, see form FTB 1131 individuals only.

## 19\_\_\_\_ Nonresident Withholding Remittance Statement

592-A

**To be filed by the withholding agent. See separate instructions for Forms 592, 592-A and 592-B.**

Name of withholding agent	Name of preparer (if other than withholding agent)
Address (number and street)	Address (number and street)
City, state and ZIP code	City, state and ZIP code
Daytime telephone number ( )	Daytime telephone number ( )
Social security no., California corporation no., FEIN or Secretary of State file no.	Social security no., California corporation no., FEIN or Secretary of State file no.
Principal Business Activity Code (Do not leave blank)	

1	Amount of independent contractor withholding. . . . .	1	\$	
2	Amount of rent or royalty withholding. . . . .	2	\$	
3	Amount of estate or trust withholding. . . . .	3	\$	
4	Amount of other withholding _____ (describe)	4	\$	
5	Amount of foreign partner or member withholding. See instructions . . . . .	5	\$	
6	Amount of domestic (nonforeign) nonresident partner or member withholding. See instructions . . . . .	6	\$	
7	Total amount of this payment. Add line 1 through line 6 . . . . .	7	\$	

**Installment payment worksheet for Revenue & Taxation Code (R&TC) Section 18666  
tax for a foreign partner or member**

**Complete only if the partnership or limited liability company (LLC) has foreign partners or members.**

**Caution:** Complete column (a) before going to the next column.

	(a) 1st Installment	(b) 2nd Installment	(c) 3rd Installment	(d) 4th Installment
1 Enter the partnership's or LLC's California source taxable income for each period . . . . .		First 3 months	First 6 months	First 9 months
2 Annualization amounts . . . . .		4	2	1.33333
3 Multiply line 1 by line 2 . . . . .				
4 Enter the partnership's or LLC's California source taxable income for each period	First 3 months	First 5 months	First 8 months	First 11 months
5 Annualization amounts . . . . .	4	2.4	1.5	1.09091
6 Multiply line 4 by line 5 . . . . .				
7 Annualized California source taxable income. In column (a), enter the amount from line 6, column (a). In columns (b), (c) and (d) enter the smaller of the amounts in each column from line 3 or line 6 . . . . .				
8 Foreign partner's or member's annualized California source taxable income Enter the foreign partner's or member's share of line 7 . . . . .				
9 Multiply line 8 by maximum tax rate . . . . .				
10 Applicable percentage				
10a Individuals . . . . .	20%	40%	60%	80%
10b Corporations . . . . .	23.75%	47.5%	71.25%	95%
11 Multiply line 9 by line 10a or line 10b whichever is applicable . . . . .				
12 Add the amounts in all preceding columns of line 13 (except column (a)) . . . . .				
13 Installment payments of withholding tax due for foreign partner or member. Subtract line 12 from line 11. If less than zero, enter -0- . . . . .				

Mail Form 592-A to the **FRANCHISE TAX BOARD, PO BOX 942867, SACRAMENTO CA 94267-0001**

**For Privacy Act Notice, see form FTB 1131 (individuals only).**

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## 19\_\_\_\_ Nonresident Withholding Tax Statement

592-B

Attach to Form 592 for each recipient. See the separate instructions for Form 592, 592-A and 592-B.

**Copy A**  
**FOR FRANCHISE TAX BOARD**

**Part I Recipient**

Recipient's name, address (number and street), city, province or state, postal code, and country

**Part II Withholding agent (Payer/Partnership/Limited Liability Company)**

Withholding agent's (payer's/partnership's/limited liability company's) name, address (number and street), city, state, ZIP code and telephone number

Social security no., California corporation no. or federal employer identification no. (F.E.I.N.)

Social security no., California corporation no., federal employer identification no. (F.E.I.N.) or Secretary of State file no.

**Part III Preparer (if other than withholding agent)**

Preparer's name, address (number and street), city, state, ZIP code and telephone number

Social security no., California corporation no. or federal employer identification no. (F.E.I.N.)

**Part IV Type of income subject to withholding.** Check the applicable box(es).

☐ Payment to Independent Contractor ☐ Rents or Royalties ☐ Estate or Trust Distributions ☐ Payment to Foreign Partner/Member ☐ Payment to Domestic (Nonforeign) Nonresident Partner/Member ☐ Other \_\_\_\_\_ (describe)

**Part V Tax Withheld**

1 Total amount subject to withholding . . . . .	1	
2 Total California tax withheld . . . . .	2	

Form 592-B (REV. 1994) **Side 1**

## 19\_\_\_\_ Nonresident Withholding Tax Statement

592-B

**Copy B**  
**FILE WITH YOUR STATE RETURN**

**Part I Recipient**

Recipient's name, address (number and street), city, province or state, postal code, and country

**Part II Withholding agent (Payer/Partnership/Limited Liability Company)**

Withholding agent's (payer's/partnership's/limited liability company's) name, address (number and street), city, state, ZIP code and telephone number

Social security no., California corporation no. or federal employer identification no. (F.E.I.N.)

Social security no., California corporation no., federal employer identification no. (F.E.I.N.) or Secretary of State file no.

**Part III Preparer (if other than withholding agent)**

Preparer's name, address (number and street), city, state, ZIP code and telephone number

Social security no., California corporation no. or federal employer identification no. (F.E.I.N.)

**Part IV Type of income subject to withholding.** Check the applicable box(es).

☐ Payment to Independent Contractor ☐ Rents or Royalties ☐ Estate or Trust Distributions ☐ Payment to Foreign Partner/Member ☐ Payment to Domestic (Nonforeign) Nonresident Partner/Member ☐ Other \_\_\_\_\_ (describe)

**Part V Tax Withheld**

1 Total amount subject to withholding . . . . .	1	
2 Total California tax withheld . . . . .	2	

**RECIPIENT:****IMPORTANT — PLEASE READ**

The withholding of tax does not relieve you of the liability to file a California tax return within three months and fifteen days (for individuals and fiduciaries), or two months and fifteen days (for corporations) after the close of your taxable or income year. If you cannot file the return by the due date, an automatic six month extension to file is granted. However, 100% of your tax liability must be paid by the due date.

To determine if you must file a tax return refer to: the instructions for Form 540, California Resident Income Tax Return, and 540NR, California Nonresident or Part-Year Resident Tax Return, for individuals; the instructions for Form 100, California Corporation Franchise or Income Tax Return, and 100S, California S Corporation Franchise or Income Tax Return, for corporations; and the instructions for Form 541, California Fiduciary Income Tax Return, for fiduciaries.

Even if you are not required by the law to file a return, you should file a return if California tax has been withheld. **(For more information, call 1-800-852-5711 from within the United States, or 1-916-845-6500 from outside the United States.)**

You may be assessed a penalty if you file your return late, if the amount withheld is not enough to satisfy your tax liability or if your California income exceeds the amounts prescribed by law for filing a return.

When filing your California tax return, attach Copy B of this form to the face of your return as you would a federal Form W-2. Individuals should enter the amount from Part V, line 2 of this form on the "California income tax withheld" line of their return. Corporations and fiduciaries should enter the amount on the "Estimated tax payments" line of their return.

Keep Copy C for your records.

**WITHHOLDING AGENT:** You are required to file Copy A of this form together with Form 592, Nonresident Withholding Annual Return, with the Franchise Tax Board. See the instructions for Form 592, 592-A and 592-B for time and place for filing returns of tax withheld at source.

Direct correspondence to: **Franchise Tax Board, Withhold at Source Unit, P.O. Box 651, Sacramento, CA 95812-0651**, or telephone: (916) 845-4900.

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File **Copy A** with Form 592, Nonresident Withholding Annual Return.

**Copies B and C** are for the recipient.

**Copy D** is for the withholding agent's records.

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**Side 2** Form 592-B (REV. 1994)

## 19\_\_\_\_ Nonresident Withholding Tax Statement

592-B

**Copy C****FOR RECIPIENT'S RECORDS****Part I Recipient**

Recipient's name, address (number and street), city, province or state, postal code, and country

**Part II Withholding agent (Payer/Partnership/Limited Liability Company)**

Withholding agent's (payer's/partnership's/limited liability company's) name, address (number and street), city, state, ZIP code and telephone number

Social security no., California corporation no. or federal employer identification no. (F.E.I.N.)

Social security no., California corporation no., federal employer identification no. (F.E.I.N.) or Secretary of State file no.

**Part III Preparer (if other than withholding agent)**

Preparer's name, address (number and street), city, state, ZIP code and telephone number

Social security no., California corporation no. or federal employer identification no. (F.E.I.N.)

**Part IV Type of income subject to withholding.** Check the applicable box(es).

☐ Payment to Independent Contractor    
 ☐ Rents or Royalties    
 ☐ Estate or Trust Distributions    
 ☐ Payment to Foreign Partner/Member    
 ☐ Payment to Domestic (Nonforeign) Nonresident Partner/Member    
 ☐ Other \_\_\_\_\_ (describe)

**Part V Tax Withheld**

1 Total amount subject to withholding . . . . .	1	
2 Total California tax withheld . . . . .	2	

Form 592-B (REV. 1994) **Side 1**

## 19\_\_\_\_ Nonresident Withholding Tax Statement

592-B

**Copy D****FOR WITHHOLDING AGENT****Part I Recipient**

Recipient's name, address (number and street), city, province or state, postal code, and country

**Part II Withholding agent (Payer/Partnership/Limited Liability Company)**

Withholding agent's (payer's/partnership's/limited liability company's) name, address (number and street), city, state, ZIP code and telephone number

Social security no., California corporation no. or federal employer identification no. (F.E.I.N.)

Social security no., California corporation no., federal employer identification no. (F.E.I.N.) or Secretary of State file no.

**Part III Preparer (if other than withholding agent)**

Preparer's name, address (number and street), city, state, ZIP code and telephone number

Social security no., California corporation no. or federal employer identification no. (F.E.I.N.)

**Part IV Type of income subject to withholding.** Check the applicable box(es).

☐ Payment to Independent Contractor    
 ☐ Rents or Royalties    
 ☐ Estate or Trust Distributions    
 ☐ Payment to Foreign Partner/Member    
 ☐ Payment to Domestic (Nonforeign) Nonresident Partner/Member    
 ☐ Other \_\_\_\_\_ (describe)

**Part V Tax Withheld**

1 Total amount subject to withholding . . . . .	1	
2 Total California tax withheld . . . . .	2	

**RECIPIENT:**

**IMPORTANT — PLEASE READ**

The withholding of tax does not relieve you of the liability to file a California tax return within three months and fifteen days (for individuals and fiduciaries), or two months and fifteen days (for corporations) after the close of your taxable or income year. If you cannot file the return by the due date, an automatic six month extension to file is granted. However, 100% of your tax liability must be paid by the due date.

To determine if you must file a tax return refer to: the instructions for Form 540, California Resident Income Tax Return, and 540NR, California Nonresident or Part-Year Resident Tax Return, for individuals; the instructions for Form 100, California Corporation Franchise or Income Tax Return, and 100S, California S Corporation Franchise or Income Tax Return, for corporations; and the instructions for Form 541, California Fiduciary Income Tax Return, for fiduciaries.

Even if you are not required by the law to file a return, you should file a return if California tax has been withheld. **(For more information, call 1-800-852-5711 from within the United States, or 1-916-845-6500 from outside the United States.)**

You may be assessed a penalty if you file your return late, if the amount withheld is not enough to satisfy your tax liability or if your California income exceeds the amounts prescribed by law for filing a return.

When filing your California tax return, attach Copy B of this form to the face of your return as you would a federal Form W-2. Individuals should enter the amount from Part V, line 2 of this form on the "California income tax withheld" line of their return. Corporations and fiduciaries should enter the amount on the "Estimated tax payments" line of their return.

Keep Copy C for your records.

**WITHHOLDING AGENT:** You are required to file Copy A of this form together with Form 592, Nonresident Withholding Annual Return, with the Franchise Tax Board. See the instructions for Form 592, 592-A and 592-B for time and place for filing returns of tax withheld at source.

Direct correspondence to: **Franchise Tax Board, Withhold at Source Unit, P.O. Box 651, Sacramento, CA 95812-0651**, or telephone: (916) 845-4900.

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File <b>Copy A</b> with Form 592, Nonresident Withholding Annual Return.	<b>Copies B and C</b> are for the recipient.	<b>Copy D</b> is for the withholding agent's records.
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**Side 2** Form 592-B (REV. 1994)

# Instructions for Forms 592, 592-A and 592-B

References in these instructions are to the Internal Revenue Code (IRC) as of **January 1, 1993**, and to the California Revenue and Taxation Code (R&TC).

## General Instructions

### A Purpose of Forms

1. Use Form 592, Nonresident Withholding Annual Return, to report the total withholding for the year under R&TC Sections 18662 and 18666. Form 592 is also a transmittal form for Form(s) 592-B, Nonresident Withholding Tax Statement.

Do not use Form 592 if:

- withholding is for the sale of real estate. In that case, get Form 597, Nonresident Withholding Tax Statement for Real Estate Sales, to report and remit real estate withholding; or
  - Form 594, Notice to Withhold Tax at Source, has been issued for a particular engagement. Complete Form 594 and return Copy A with payment of tax withheld to the Franchise Tax Board (FTB).
2. Use Form 592-A, Nonresident Withholding Remittance Statement, to make payments to the FTB under R&TC Sections 18662 and 18666. Each payment made during the taxable year must be accompanied by Form 592-A. A worksheet is provided to figure installment payments of R&TC Section 18666 withholding for a foreign partner or member.
  3. Use Form 592-B, Nonresident Withholding Tax Statement, to show the amount of income subject to withholding and tax withheld for nonresidents for the taxable year.

File a separate Form 592-B for each nonresident. Copy A of Form 592-B must be attached to Form 592 and must be filed annually with the FTB.

Nonresidents must attach Copy B of Form 592-B to their Form 540NR, California Nonresident or Part-Year Resident Income Tax Return, to claim credit for their tax withheld. Enter the amount of tax withheld on the income tax withheld line of that return. Any residents who were erroneously withheld upon would also receive Copy B of Form 592-B and should attach it to their Form 540, California Resident Income Tax Return, and enter the amount of tax withheld on the income tax withheld line of that return. A corporation must attach Copy B of Form 592-B to its Form 100, California Corporation Franchise or Income Tax Return, and enter the amount of tax withheld on the estimate payment line of that return.

Copy C is retained by the recipients for their records.

Copy D is retained by the withholding agents for their records.

### B Who Must File

Any individual or entity making payments or allocations of income to individuals who are nonresidents of California or to corporations, partnerships or limited liability companies (LLC) which do not have a permanent place of business in California, must withhold tax from such payments and transmit the amount withheld to the FTB.

### C Law

The R&TC Section 18662, and the related regulations, require withholding on payments made to nonresidents for income received from California

sources. The withholding rate is 7 percent unless a reduced rate is authorized by the FTB. Get Form 588, Nonresident Withholding Waiver Request, to request a reduced rate or waiver.

The R&TC Section 18666 (modifying IRC Section 1446) requires withholding on foreign partners and members at a rate of 9.3 percent for corporations and 11 percent for individuals, partnerships, LLCs and fiduciaries. There is no provision to allow a waiver or reduced rate of withholding for foreign partners or members.

### D Income Subject to Withholding

The items of income subject to withholding include, but are not limited to:

- compensation for services performed in California by nonresidents (including payment of expenses not separately stated) (for more information, get FTB Pub. 1023, Nonresident Withholding – Independent Contractor, Rent and Royalty Guidelines, or FTB Pub. 1024, Nonresident Withholding – Entertainment Guidelines);
- payments to nonresidents for rents or royalties on property (real or personal) located in California (for more information, get FTB Pub. 1023);
- distributions of California source income to nonresident beneficiaries from an estate or trust;
- prizes and winnings received by nonresidents for contests in California;
- partnership or LLC income, gain or (loss) allocable under IRC Section 704 to a foreign nonresident partner or member;
- distributions of California source income to a domestic (nonforeign) nonresident partner or member (for more information get FTB Pub. 1017, Nonresident Withholding – Partnership Guidelines); and
- other payments of California source income made to nonresidents.

Compensation for services includes payments for services rendered in California, commissions paid to salesmen or agents for orders received or sales made in California, fees for professional services rendered in California, and payments to entertainers, wrestlers, boxers, etc., for performances in California.

When compensation is paid for services performed both within and outside of California, the portion paid for services rendered in this state and subject to withholding should be determined by an allocation.

### E Exceptions to Withholding

Withholding is not required when:

- the payment is for goods;
- the payment is being made to a resident of California or to a corporation, partnership or an LLC which has a permanent place of business in California. Form 590, Withholding Exemption Certificate, can be used by vendors/payees to certify that they are residents of California or have a permanent place of business in California. The signed form containing this certification should be retained by the withholding agent and should be provided to the FTB upon request. The withholding agent will be relieved of the withholding requirements if they rely in good faith on a signed Form 590 that the vendor/payee is a resident of California or has a permanent place of business in California. If the resident, corporation, partnership or LLC which has a permanent

place of business in California is acting as an agent for the actual vendor/payee, this exception does not apply;

- the total payments of California source income to the vendor by the withholding agent are \$1,500 or less for the calendar year;
- the payments are for income from intangible personal property, such as interest and dividends unless derived in a California trade or business or the property has acquired a business situs in California;
- the payments are for services performed outside of California or for rents, royalties and leases on real estate located outside of California;
- the vendor/payee is a tax-exempt organization under either California or federal law;
- the payments are wages paid to employees. Wage withholding is administered by the California Employment Development Department (EDD). For more information contact your local EDD office;
- the vendor/payee receives a written authorization from the FTB waiving the withholding;
- the domestic (nonforeign) nonresident partner or member provides the partnership or LLC with a signed Form 590-P, Nonresident Withholding Exemption Certificate for Partners and Members; or
- the income of nonresident partners or members, including a bank or corporation, is derived from qualified investment securities of an investment partnership.

### F Waivers and Reduced Rates

The FTB will generally grant a waiver if:

- the vendor/payee has a history of filing California returns;
- the vendor/payee is currently making estimated tax payments;
- distributions are made by publicly traded partnerships; or
- distributions are made to brokerage firms and tiered partnerships or LLCs.

Reduced withholding rates will generally be granted when the 7 percent withholding rate results in significant over withholding.

**Note:** There is no provision in the law to allow waivers or reduced withholding to foreign nonresident partners or members.

Get Form 588 to request a waiver or a reduced rate of withholding.

If the distribution from a partnership or LLC is determined to be a return of capital or does not represent taxable income for the current or prior years, no withholding is required. Although a waiver is not required in these situations, the partnership or LLC may be liable for the withholding if at audit, the FTB determines that the distribution represented taxable income.

### G Interest and Penalties

The law provides for interest on late payments of withholding. Interest is computed from the due date of the withholding to the date paid.

Failure to withhold may result in the withholding agent being personally liable for the amount of tax which should have been withheld and for interest and penalties.

## H When and Where to File

**Form 592:** For withholding on domestic nonresident partners or members, independent contractors, recipients of rents and royalties and beneficiaries of estates and trusts. File Form 592 on or before January 31st following the close of the calendar year. For withholding on foreign (non-U.S.) partners or members, file Form 592 on or before the 15th day of the 4th month after the partnership's or LLC's tax year ends (15th day of the 6th month if all partners or members are foreign). If a partnership or LLC has both foreign and domestic nonresident partners or members, a separate Form 592 must be filed for each type of partner or member. Include the total amount of withholding not previously remitted and Copy A of Form(s) 592-B or attach a list to Form 592 containing the information reported on Form 592-B. The withholding agent must still provide Copy B and Copy C of Form 592-B to each vendor/payee.

**Form 592-A:** File Form 592-A with the payment of withholding by the 20th day of the month following the month that the total amount withheld from all vendors/payees exceeds \$2,500. For withholding on foreign partners or members, file Form 592-A with the payment of withholding on an installment basis following federal rules for timing of the payments. (See specific instructions for Form 592-A.)

**Form 592-B:** Copy B and Copy C of Form 592-B must be sent to the payee by the same time that form 592 is due to the FTB.

Except for foreign partners, withholding of tax by withholding agents shall be on a calendar year basis, regardless of the accounting period adopted by the vendor/payee or withholding agent. For foreign partners or members, withholding of tax depends on the tax year of the partnership or LLC. Send forms and payment of tax withheld at source to:

**FRANCHISE TAX BOARD  
PO BOX 942867  
SACRAMENTO CA 94267-0001**

## I Magnetic Media Filing

Withholding information may be submitted to the FTB via magnetic media. Withholding agents filing on magnetic media need not file year-end paper withholding documents with the FTB for individual vendors/payees. However, withholding agents must continue to provide vendors/payees with Form 592-B, showing their California income and withholding amounts for the year. For more information on magnetic media, get FTB Pub. 1023F, Nonresident Withholding – Magnetic Media Guidelines, or call (916) 845-3778.

## J Additional Information

To request a withholding at source publication, or for more information, contact the Withhold at Source Unit at:

**WITHHOLD AT SOURCE UNIT  
FRANCHISE TAX BOARD  
PO BOX 651  
SACRAMENTO CA 95812-0651  
Telephone: (916) 845-4900  
FAX Number: (916) 845-4831**

## Specific Instructions

### Form 592, Nonresident Withholding Annual Return

Check the appropriate box to show how you are providing Form 592-B information.

Complete and sign Form 592, Section A, if you are reporting withholding on independent contractors, rents and royalties, estates and trusts, or other entities. Complete and sign Form 592, Section B (on Side 2) if you are reporting withholding on foreign or domestic (nonforeign) nonresident partners or members.

**Principal business activity code.** Enter the code number for the specific industry group from which the greatest percentage of total receipts is derived. See the federal instructions for Form 1120, U.S. Corporation Income Tax Return, the instructions for Form 100 or Schedule C (Form 1040), Profit or Loss From Business. You may also contact the Withhold at Source Unit for more information.

Complete Form 592, Section A, Part II and Section B, Part II and Part III at the end of the year to determine the total amount of withholding for the year and any remaining balance due. Provide a list of amounts paid to the FTB during the tax year and the dates of the payments to help reconcile the year-end totals. To determine if a final payment for the year is required subtract the total of payments made during the year from total withholding tax due and enter the balance. If the balance due is zero, no additional payments are needed. If a balance is due, submit the additional withholding with Form 592.

**Foreign nonresident partners or members.** Partnerships and LLCs with foreign nonresident partners or members must make four installment payments of withholding during the tax year. Form 592, Section B, Part II, calculates withholding based on actual amounts of income allocations versus estimates made during the year.

### Form 592-A, Nonresident Withholding Remittance Statement

**Domestic nonresident partners or members.** Complete and mail Form 592-A to the FTB each time a payment of tax withheld from all vendors exceeds \$2,500. The amount of tax withheld should be entered on the appropriate lines. Payments of tax withheld at the end of the year that are less than \$2,500 are submitted with Form 592.

**Principal business activity code.** See the instructions for Form 592 above.

**Foreign nonresident partners or members.** If a partnership or LLC has foreign nonresident partners or members, the partnership or LLC must make four installment payments of withholding during the taxable year. In general, the amount of a partnership's installment payment or an LLC's installment payment is equal to the sum of the installment payments for each of the partnership's foreign partners or LLC's foreign members. For a foreign partner or member, an installment amount of the R&TC Section 18666 tax is correct if figured by applying the principles of IRC Section 6655(e)(2). To figure installment payments under this method, use the worksheet on Form 592-A. The worksheet provides for the annualization of the partnership or LLC income and is used throughout the year to compute each installment payment.

### Specific Instructions for Worksheet

**Line 1** – Enter the amounts for periods as indicated:

- 1(b) – first 3 months
- 1(c) – first 6 months
- 1(d) – first 9 months

**Line 4** – Enter the amounts for periods as indicated:

- 4(a) – first 3 months
- 4(b) – first 5 months
- 4(c) – first 8 months
- 4(d) – first 11 months

**Line 12** – Enter the amounts as indicated:

- 12(b) – amount from line 13(a)
- 12(c) – add amounts from line 13(a) and line 13(b)
- 12(d) – add amounts from line 13(a), line 13(b) and line 13(c)

Alternatively, each installment payment during the tax year may be made in an amount equal to 25 percent of the withholding that would be payable on the partnership's or LLC's California source taxable income allocable to foreign partners or members for the prior year if the following three conditions are met:

1. The prior year's tax consisted of 12 months;
2. The partnership filed Form 565, Partnership Return of Income, or the LLC filed Form 568, Limited Liability Company Return of Income, for the prior year; and
3. The amount of California source taxable income for the prior year was not less than 50 percent of the California source taxable income as shown on Form 592 for the current year.

**Domestic nonresident partners or members.** To compute the California installment payments for the tax withheld on domestic nonresident partners or members, use the worksheet below.

- |  |       |
|--|-------|
| (a) Total income subject to withholding. . . . .   | _____ |
| (b) Withholding percentage (generally 7 percent unless a reduced amount has been authorized in writing by the FTB) . . . . .   | _____ |
| (c) Total withholding tax. Multiply line (a) by line (b) . . . . .   | _____ |
| (d) Taxes withheld and previously remitted during the current calendar year . . . . .  | _____ |
| (e) Withholding payment to be remitted. Subtract line (d) from line (c). Remit payment with Form 592-A, (if the amount is less than \$2,500, see Section H, When and Where to File). . . . . | _____ |

### Form 592-B — Nonresident Withholding Tax Statement

Complete Form 592-B at the end of the year and attach Copy A to Form 592. Copy B and Copy C should be sent to the recipient. Copy D should be retained by the withholding agents for their records.

The total amount of all withholding for all Form 592-B's should equal the total amount of withholding on Form 592.

NONRESIDENT WITHHOLDING MAGNETIC MEDIA GUIDELINES

**Purpose:** These guidelines explain the procedures for providing California nonresident withholding information to the Franchise Tax Board **using a 3½" Microsoft Windows formatted Magnetic Disk or CD-R (read only)**. Payers using magnetic media for individual payees should not file year-end paper Forms 592-B, *Nonresident Withholding Tax Statement*, with the Franchise Tax Board. However, payers must continue to provide paper Forms 592-B to payees showing their annual California income and withholding amounts.

**Due Date:** A paper Form 592, *Nonresident Withholding Annual Return*, with Form 592-B information on disk or CD is due by January 31 following the end of the year (unless we allow an extension). See *Nonresident Withholding Partnership Guidelines* (FTB Pub. 1017) for due dates related to withholding on allocations to foreign partners.

**Acceptable file formats:** We accept .xls (Excel 95 or 97) or comma delimited ASCII files. We prefer the Excel format. Zip compressed files of either format are acceptable.

**Disk Label:** The disk should have a paper label with the following information:

- Withholding agent name
- Tax year
- Total number of payees
- Contact person
- Contact person's phone number (including area code)
- File format
- If there is more than one disk/CD, please include "Disk (CD) 1 of 2" or other reference to identify existence of multiple related disks.

**Record Layout:** The disk should include two files. The first file (name the file "Agentinfo.txt") is a text file that contains the following information: withholding agent, withholding agent's ID number, withholding agent's address, withholding agent's phone number, withholding agent's contact person, preparer/sender, preparer/sender's contact person, preparer/sender's phone number, and tax year. If there is more than one disk, include this text file on each disk.

The second file (name the file "Payeedata.xls" for Excel or "Payeedata.csv" for Comma Delimited ASCII) will include the required information for each payee withheld upon. This file should have the fields as shown in Table 1: 592-B Payee Data File Layout. Include field or column headings exactly as shown. The field sizes shown are the maximum and should not be padded with spaces. For Comma Delimited ASCII format, enclose alpha and alpha-numeric fields in double quotes, format numeric fields as ASCII and separate fields with a comma. The total number of payees included in this file should equal the number of payees shown on the Form 592.

Table 1: 592-B Payee Data File Layout

FIELD NAME	FIELD SPECIFICATIONS	DESCRIPTION
Payee Num	5 digits, numeric	Enter the sequential number of the payee beginning with "1".
Tax Year	4 characters, numeric	Enter the 4-digit year for which the withholding was done.
ID Number	9 characters, numeric <sup>1</sup>	Enter the taxpayer identification number of the payee. Enter only numbers – no dashes.
ID Type	6 characters, alpha	Enter one of the following exact terms: SSN, CaCorp, FEIN, ITIN (Individual Taxpayer Identification Number – from IRS), or TPID (Taxpayer Identification Number – from FTB)
I/O	1 character, alpha	If the payee is an individual, enter "I". If the payee is not an individual, enter "O" (for Other).
First Name	11 characters, alpha	If the payee is an individual, enter the first name.
MI	1 character, alpha	If the payee is an individual, enter the middle initial.
Last Name	17 characters, alpha	If the payee is an individual, enter the last name.

Other Name Line 1	35 characters, alpha-numeric	Use when the payee is not an individual. Enter the name of the corporation, partnership, trust, etc. Do not enter the name of a contact person or a trustee.
Other Name Line 2	35 characters, alpha-numeric	Use only when the name of a non-individual payee does not fit in the "Other Name Line 1" area. Do not enter the name of a contact person in this area. If the payee is a trust, the trustee information may be entered here.
Address Line 1	30 characters, alpha-numeric <sup>2</sup>	Enter the street address (or post office box) of the payee.
Address Line 2	30 characters, alpha-numeric <sup>2</sup>	Use only when the street address does not fit into the "Address - Line 1" area.
City	17 characters, alpha-numeric	Enter the city of the payee.
State	2 characters, alpha	Enter the 2-letter abbreviation for the state of the payee.
Zip 5	5 characters, numeric <sup>1</sup>	Enter only the first 5 digits of the U.S. zip code of the payee.
Zip 4	4 characters, numeric <sup>1</sup>	Enter only the last 4 digits of the U.S. Zip + 4 (nine digit postal code) of the payee.
Country	30 characters, alpha-numeric	Enter the country of the payee. (default = USA)
Income Type	22 characters, alpha	Enter one of the following exact terms for the type of California source income the payee received: Independent Contractor, Rent or Royalty, Estate, Trust, Foreign Partner, Domestic Partner, or Other. (For California source income allocated to foreign members or distributed to domestic nonresident members of an LLC, use "Foreign Partner" or "Domestic Partner", respectively.)
Other Income Description	22 characters, alpha	Enter one of the following exact terms if "Other" was shown for "Type of Income": Classical, Fairs, Game Shows, Horse Racing, Performers, Plays, Sports, Universities, or Other.
Income Subject to Withholding	13 digits (10 digits to the left of decimal, 1 digit decimal, 2 digits to the right of decimal), numeric	Enter the amount of California source income subject to withholding.
Amount Withheld	13 digits (10 digits to the left of decimal, 1 digit decimal, 2 digits to the right of decimal), numeric	Enter the amount of California tax withheld.

(1) For Excel, the ID Number, Zip 5 and Zip 4 columns should be formatted for text to avoid truncation of leading zeros.

(2) Special characters of "!", " " and " " are acceptable for the Address Line 1 and Address Line 2 fields.

**Preparation of Form 592 Disk Package:** Complete Form 592, *Nonresident Withholding Annual Return*, and send it with the disk. Please label the disk as shown on side 1. If you need to send a payment with the return, send the original Form 592 with the payment to the address shown on the Form 592 and send a copy (marked "copy" at the top) with the disk to the address below. If you are the preparer for more than one withholding agent, please provide a separate Form 592 and disk for each withholding agent.

**Mail your California Form 592 and withholding disk to:**

NONRESIDENT WITHHOLDING SECTION  
FRANCHISE TAX BOARD  
PO BOX 651  
SACRAMENTO CA 95812-0651

**Test Disk:** If you are not sure you have met the above specifications, you may send us a test disk. The test information may consist of actual or test data; however, test data should adequately represent the breadth of actual data. The test disk should be submitted early enough to allow our technicians time to analyze the data and for you to make any necessary corrections. Please send a cover letter to the above address with the test disk. Label the disk "Test Disk" in addition to the standard information required under **Disk Label** on side 1.

**More Information:** For more information on the requirements for sending nonresident withholding information by disk or CD, call the Nonresident Withholding Section at (916) 845-6059.